

The Highland Licensing Board

Meeting – 31 March 2015

Agenda Item	10.1
Report No	HLB/032/15

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

Station Hotel, 94 High Street, Alness

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence for Station Hotel, 94 High Street, Alness.

1.0 Description of Premises

1.1 The premises were granted a licence, on transition, on 1 September 2009 and transferred to the current licence holder on 31 January 2014. The premises operate as a hotel offering the usual range of activities and services.

2.0 Current Operating Hours

2.1 The premises currently enjoy the following operating hours:

On sales:

Mondays to Fridays	1100 hrs to 0100 hrs
Saturdays	1100 hrs to 2400 hrs
Sundays	1230 hrs to 2330 hrs

Off sales:

Mondays to Saturdays	1100 hrs to 2200 hrs
Sundays	1230 hrs to 2200 hrs

3.0 Summary of Variation Application

3.1 Variation Sought

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

(1) On sales hours on Saturdays and Sundays to terminate at 0100 hrs the following day

(2) On and off sales on Sundays to commence at 1100 hrs

(3) Add a seasonal variation to take advantage of any period of extended hours agreed by the Licensing Board over the Festive Period.

(4) Add outdoor drinking area and vary the layout plan to show the location of that area.

(4) At section 5 of the operating plan add conference facilities and outdoor drinking as activities available during and outwith core hours. Add restaurant, receptions, club meetings, music and televised sport as activities to be permitted outwith core hours.

(5) The following additions are requested to be made at section 5 of the operating plan: outside drinking/eating area, permission to sell take away food, permission to hold charity, fundraising, wine tasting, company promotional events also barbeques and from time to time a marquee may be erected in the grounds for functions and events.

(6) Amend children and young persons' terms of entry to allow access at all times and to all public parts of the premises in accordance with Board policy for children and to allow, at the discretion of the management, unaccompanied young persons to be on the premises at any time failing which they must be accompanied by a suitable responsible adult.

4.0 Background

4.1 On 13 February 2015 the Licensing Board received an application for a major variation of a Premises Licence from Avonfield Limited.

4.2 The application was publicised during the period 23 February to 16 March 2015 and confirmation is awaited that the site notice was displayed during this time.

4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire & 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, the following timeous notice(s) of objection/representation have been received and are appended:

Ian and Mary Black (representation)

Middleton Ross & Arnot, Solicitors, on behalf of William D Smith (objection)

4.6 The applicant and the objectors have been invited to attend the hearing. All have been advised of the hearings procedure which will be followed at the meeting and 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 situated in the centre of Alness in the vicinity of both residential and commercial properties and are undergoing refurbishment in respect of which some planning permissions are required or have been granted.

6.3 The element of a planning application for a new temporary function suite extension has been withdrawn but, in any case, was not included in the variation application. It has also been confirmed that planned temporary sleeping pods would be located outwith the licensed area.

6.4 At present access to the car park is directly from High Street, Alness and down the side of the building to a large tarred area at the rear. It is proposed to close the access from the High Street and relocate it to Academy Lane allowing access directly to the car park. The existing access will be blocked up and the driveway, which is bordered by a stone wall, converted to a grassed terrace for

use as an outdoor drinking area. A formal smoking area and shelter, only accessible from within the premises, is to be sited within the licensed area reducing the likelihood of any customers smoking on the pavement outside the premises or in Academy Lane.

- 6.5 The applicant has provided a noise management plan a copy of which is appended. This has been made available to Environmental Health who describe the plan as “quite reasonable” but reliant on proper enforcement by the applicant.
- 6.6 The variations sought are reasonable and appropriate for this type of premises and any potential for conflict with any of the licensing objectives may be addressed by the imposition of the suggested conditions.

7.0 Additional Information

- 7.1 During the consultation process I became aware of some public concern regarding matters involving, mainly, planning-related issues but which they considered relevant to this variation application. Some of the matters raised may become the subject of formal objections or representations.
- 7.2 Concern about off-sales hours was based on a misunderstanding of the proposed hours which are now accepted as being within Board policy.
- 7.3 Concerns regarding a proposed temporary function suite extension have been addressed by the earlier withdrawal of that element from a planning application.
- 7.4 The applicant has sought the Board’s permission to amend the application so as to remove references to a marquee but which, for the avoidance of any doubt, would not have been sited within the licensed area and could not be considered in terms of this application.
- 7.5 The sleeping pods referred to in a planning application are to be sited outwith the licensed area. The applicant has been reminded that persons using those pods cannot be considered residents in terms of the Licensing (Scotland) Act 2005 and not entitled to any “resident’s rights” outside core licensed hours.
- 7.6 A formal fenced smoking area and shelter has been placed on the east side of the premises with access only possible directly from the premises.
- 7.7 The applicant has submitted a noise management plan to which he will be held accountable and which will address specific and general concerns about excessive noise.

8.0 HLB Local Policies

- 8.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-16
- (2) Highland Licensing Board Equality Strategy

9.0 Conditions

9.1 Mandatory Conditions

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

9.2 Local Conditions

9.3 Existing local conditions will continue to apply and it is recommended that the following additional local conditions be attached:

- e. After 2200 hrs alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.

- 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.

9.4 Specific Condition

- 1. A written noise management plan acceptable to the Highland Licensing Board must be in place for the premises and any relevant activity or service being provided must be conducted in accordance with that plan.

9.5 Additional 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

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special conditions detailed at para 9 above.

Reference: HC/CSER/0893

Date: 17 March 2015

Author: G Sutherland

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

Appendix 1 Letter from Ian and Mary Black dated 28 February 2015

Appendix 2 Letter from Middleton Ross & Arnot dated 5 March 2015 acting on behalf of William

Appendix3 Noise Management Plan

Ian & Mary Black

"Arras"
23 Perrins Road,
Alness
Ross-shire
IV17 0SU

28/02/15

The Highland Council
Clerk to the Licensing Board
Alasdair Mackenzie
Chief Executive's Office
The Town House
Inverness IV1 1JJ

RECEIVED
- 3 MAR 2015

Tel: 01349 883243

RECEIVED
06 MAR 2015

Dear Sir,

Station Hotel Alness – Application for Variation of Licence

I refer to your letter of 17th February 2015 re. the above application, which was sent to our property Commerce House, 77 High Street, Alness.

While the general re-development of the Hotel is seen as a very positive step and an asset to the town, we consider some of the requested variations to be inappropriate for premises so close to residential properties.

- Variation 1 – Increase of hours to 1.00 the following day.
 - The extension to hours coupled with the playing of music sought in Variation 3 would create an unacceptable level of late night noise, depriving tenants in Commerce House of sleep; this has already been an issue with the existing hours, particularly during the summer months when windows and doors of the hotel have been open.

There are numerous residential properties in equally close proximity as ours, and we consider any extension to hours which includes playing of music would amount to a public nuisance and anti-social behaviour which are inconsistent with Licensing Objectives.

- Variation 3 – Outside (or marquee) drinking, promotional events, music and televised sport out with core hours.
 - Any of the above activities held outdoors beyond core hours would cause disturbance to our tenants and other residents nearby during normal night time sleeping hours.

The location of the hotel does not lend itself to late night outside activities without causing unacceptable levels of noise leading to sleep deprivation for nearby residents, thus being inconsistent with Licensing Objectives in terms of both public nuisance and public health. Both issues would also have a detrimental effect on property values.

The Scottish Government has highlighted the detrimental effect of excess alcohol on individual health, on NHS resources and workplace absenteeism, and we feel local Licensing Boards should help mitigate these problems by refusing unnecessary extensions to licensing hours.

To be clear, we are not objecting to music at reasonable sound levels, or other activities, during core hours, either inside or outside the hotel.


Ian Black

e-mail:- blacks.mail@btinternet.com

RECEIVED

U 6 MAR 2015

m i d d l e t o n r o s s

Our Ref: IRH/FM/SMITW
Your Ref: AM/WDG



05 March 2015

12/1
Clerk of the Licensing Board
Chief Executive's Office
The Town House
INVERNESS
IV1 1JJ

Mansefield House
7 High Street Dingwall
Ross-shire IV15 9HJ

Telephone: 01349 862214
Property Enq: 01349 865125
Facsimile: 01349 863819
DX Box 520582 Dingwall
LPI Dingwall
mail@middletross.co.uk
www.middletross.co.uk

Dear Sir

**WILLIAM DAVID SMITH
STATION HOTEL, 94 HIGH STREET, ALNESS, IV17 0SG
APPLICATION FOR VARIATION OF PREMISES LICENCE**

We act on behalf of Mr Smith in relation to the above application for which he has received notification by letter from the Council dated 17 February 2015. On behalf of our client he wishes to lodge a formal objection to the application.

His objection takes account of two grounds in terms of the Licensing (Scotland) Act 2005 namely:-

1. With regard to the specific application (1), the stated hours for offsales is in breach of Section 65(3) of the Act and therefore must be refused in terms of Section 23(5)(b).
2. Generally the application is inconsistent with Licensing objectives and therefore must be refused in terms of Condition 23(5)(d) of the Act.

Mr Smith is the proprietor of the subjects at 1 Academy Lane directly opposite the area which would be affected by the application. He is also the proprietor of other premises at 90 High Street, Alness on the corner of High Street and Academy Lane which would also be affected by the application to the detriment of any tenants who may reside therein. The premises are currently empty but Mr Smith has Planning Permission and Building Warrant to redevelop the site for shop/office premises on the ground floor and residential accommodation on the upper floor which should be ongoing this year and would remain of relevance in connection with the objection.

The principal ground of objection is that if the proposed application is granted, there is increasing likelihood of noise nuisance, which would affect Mr Smith's standard of living in his premises, since no effort has been made to address this issue. In addition it appears that if the application is granted, the outdoor smoking area currently utilised by the hotel would be affected and with the possibility that the smoking area might then be relocated outwith the grounds of the hotel to the public footpath in Academy Lane, therefore causing additional noise pollution and nuisance.

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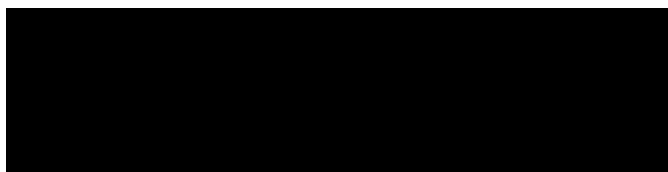
The applicants recently submitted a planning application to Highland Council under reference 14/02398/FUL covering a relocated vehicle access and other modifications and temporary sleeping pods for accommodation during refurbishment works at the hotel. We understand that this permission has been granted. A second application under reference 14/03481/FUL has also been submitted to cover the proposals in the Application for Variation of Premises Licence which really fly in the face of the reasoning behind the earlier application and the reasons why it was given. The latter application remains undetermined at this stage. Mr Smith has lodged an objection to the latter planning and information has been sought from other associated parties, including Alness Community Council and the Council's own Environmental Health Department. The Community Council have objected on similar grounds that the temporary function hall would increase noise pollution, in particular to houses at the rear of the Station Hotel, including Mr Smiths and by its nature, this would house from time to time live music which is a potential to create additional noise and nuisance to all neighbours. In addition the car parking area currently serving the hotel would be greatly reduced and it is thought there would therefore be insufficient parking remaining thereafter if such plans were approved.

As far as Environmental Health was concerned, there are two issues concerned for this service being impacts upon local air quality of the proposed biomass boiler as part of the application and therefore by extension the application to vary the licence and noise impact for the development, particularly the temporary function suite element. No information has been supplied in the planning application, nor with the application to the Licensing Board on either these subjects that would allow either the applicant or Environmental Health Department to make an assessment and comment appropriately. Whilst the applicant would prefer that the application is refused, if the Board is disposed to consider allowing the application, then we would certainly ask that any decision be deferred pending the applicant submitting a completed biomass boiler information form and a noise impact assessment to both the Board and the Planning Department and that any decision on the licence be postponed until determination of the planning application.

It is certainly quite clear at this stage that the applicant has appeared to have made no efforts to assess that any projected noise from the development for which the application is made against appropriate standards and details of any noise mitigation measures which are proposed, and how the quality and quantity of such mitigation would be achieved. We understand that noise pollution has been a problem with the Hotel in the past, and Mr Smith has had previous issues addressed by Environmental Health when he was resident at 90 High Street. The current proposals would have an even greater direct effect on his current residence at 1 Academy Lane.

We attach summary pages of the aforementioned planning applications which would be of relevance in making the decision. Included in those are the comments letters by Alness Community Council and Environmental Health. We also attach photographs showing the location of our clients property affected by the proposal.

Yours faithfully



Encs

Print Version

Application Summary

Reference: 14/02398/FUL
Alternative Reference:
Application Received: 17 Jun 2014
Address: The Station Hotel 94 High Street Alness IV17 0SG
Proposal: Relocated vehicle access. New external doorways and wall modifications. Temporary sleeping pods for accommodation during works.
Status: Permission Granted
Appeal Status:
Appeal Decision:

Application Details

Application Type: Full Application
Decision: Application Permitted
Actual Decision Level: Delegated Decision
Expected Decision Level: Delegated Decision
Case Officer: Dorothy Stott
Community Council: Alness Community Council
Ward: Cromarty Firth
District Reference:
Applicant Name: WM Munro Construction
Agent Name: Kerr AT Architects
Agent Company Name:
Agent Address: Firthview Officers Lentrans Inverness IV3 8RJ
Agent Phone Number:
Environmental Assessment Requested: No

Constraints

Name	Constraint Type	Status
ALNESS, 92-94 (EVEN NOS) HIGH STREET, STATION HOTEL 60781602905.400002 Name: Alness Community Council	B and C Listed Buildings Highland Council Area Community Council	

Related Items

There are 3 cases associated with this application.

There is 1 property associated with this application.

Print Version

Application Summary

Reference: 14/03481/FUL

Alternative Reference:

Application Received: 09 Sep 2014

Address: The Station Hotel 94 High Street Alness IV17 0SG

Proposal: New stand alone biomass plantroom. 2No dormer extensions. New temporary function suite extension

Status: Pending Consideration

Appeal Status:

Appeal Decision:

Application Details

Application Type: Full Application

Expected Decision Level: Delegated Decision

Case Officer: Dorothy Stott

Community Council: Alness Community Council

Ward: Cromarty Firth

District Reference:

Applicant Name: Wm Munro Construction

Agent Name: Kerr AT Architects

Agent Company Name:

Agent Address: Firthview Offices Lentrans Inverness IV3 8RJ

Agent Phone Number:

Environmental Assessment Requested: No

Constraints

Name	Constraint Type	Status
ALNESS, 92-94 (EVEN NOS) HIGH STREET, STATION HOTEL 60781602905.400002 Name: Alness Community Council	B and C Listed Buildings Highland Council Area Community Council	

Related Items

There are 3 cases associated with this application.

There is 1 property associated with this application.

From: [REDACTED]
To: Epc; Dorothy Stadi
Subject: ACC feedback re 14/03481/FUL
Date: 30 September 2014 15:07:46
Attachments: [REDACTED]

Hi Dorothy

please find attached letter from ACC

Barbara

From: [Nick Thornton](#)
To: [Dorothy Stott](#)
Cc: [Epc](#)
Subject: 14/03481/FUL Station Hotel Alness
Date: 13 October 2014 16:55:22
Attachments: [THC Biomass Development Info Request Form.doc](#)

Dorothy

There are two issues of concern for this service, being impacts upon local air quality of the proposed biomass boiler and noise impact of the development, particularly the temporary function suite element.

Unfortunately there is no information in the planning documentation on either of these subjects that would allow us to make an assessment and comment appropriately.

I would ask that the applicant submit a completed biomass boiler information form (attached). This information will be used to assess whether adequate flue provision has been made and whether the flue emissions are likely to impact significantly upon local air quality.

I would also ask that the applicant submit for our appraisal a noise impact assessment (NIA) of the proposed temporary function suite. The NIA should make an assessment of the projected noise from the development against appropriate standards, identify if noise mitigation measures are necessary and if so identify those measures and quantify the mitigation achieved.

Regards

Nick

Nick Thornton
Environmental Health Technical Officer
Community Services

Environmental Health welcomes your feedback. Please help us improve our service by taking our short customer survey by clicking on this link <https://www.surveymonkey.com/s/highlandeh>



Alness Community Council
C/O Alness Heritage Centre
102-106 High Street Alness IV17 0SG
Tel: 01349 883005

Mrs Dorothy Stott
Planning Officer
Highland Council
84 High Street
Dingwall
IV15 9QN

29th September 2014

Dear Mrs Stott

**PLANNING REF NO: 14/03481/ FUL
NEW STAND ALONE BIOMASS PLANTROOM. 2NO DORMER
EXTENSIONS. NEW TEMPORARY FUNCTION SUITE EXTENSION
THE STATION HOTEL, 94 HIGH STREET, ALNESS.**

I write on behalf of the Alness Community Council to inform you that they wish to object to the above planning application. They believe the temporary function hall would increase noise pollution in particular to the houses to the rear of the building. By the nature of a function hall this would from time to time host live music which has potential to create noise and nuisance to neighbours. The car parking area would also be greatly reduced and we would question if sufficient parking would remain for such plans.

Yours sincerely

Barbara Sutherland
Secretary



NOISE MANAGEMENT PLAN

Name of Premises	Station Hotel
Address	94 High Street, Alness, IV17 0PG
Licensee	Avonfield Limited
Name of Manager	Anne Macrae
Date	6th March 2015

Noise Source	Noise Control Measures in Place or to be taken
Internal music, films, TV etc	<p>Premises License Opening Times 11.00 - 01.00 Monday to Sunday.</p> <p>It is anticipated the day to day operational hours will be shorter than this with normal closing time being 23.00 hours Monday to Thursday. Closing times on Friday, Saturday and Sunday will be at the discretion of the Premises Manager.</p> <p>Entertainment generating noise will normally be restricted to Friday, Saturday and Sunday.</p> <p>Entertainment will be in the form of live music (on a once monthly basis), disco's and karaoke (on a weekly basis).</p> <p>Noise generated from entertainment activities must be kept to an acceptable level i.e. inaudible at the nearest noise sensitive property.</p> <p>Windows will remain closed and entrance doors fitted with automatic closing devices, the propping open of entrance doors is not permitted, entrance doors will be supervised to ensure they are not held open for any length of time</p> <p>Where amplification equipment is used speakers will be directed away from neighbouring properties and positioned away from doors / windows and sitting on anti vibration / acoustic matting.</p> <p>Regular noise monitoring to be conducted and recorded during entertainment to ensure noise levels are acceptable and control measures are sufficient.</p>

	<p>Should increased / unacceptable noise levels be detected during monitoring the noise source will be reduced in volume / bass to an acceptable level immediately, if this cannot be achieved then the noise source will be stopped.</p> <p>The source of internal noise will be restricted to the public bar and lounge only.</p> <p>Duty Manager to supervise the entertainment to ensure compliance with the premises license and environmental legislation.</p>
Outside Music	<p>Generally no playing of outside music unless an infrequent short duration special event where a noise risk assessment has been completed, increased control measures implemented to control noise to an acceptable level and all neighbouring residential properties informed.</p> <p>Regular noise monitoring to be conducted and recorded during the playing of outside music to ensure noise levels are acceptable and control measures are sufficient.</p> <p>Should increased / unacceptable noise levels be detected during monitoring the noise source will be reduced in volume / bass to an acceptable level immediately, if this cannot be achieved then the noise source will be stopped.</p> <p>During playing of outside music speakers to be directed away from neighbouring properties and sitting on anti vibration / acoustic matting.</p> <p>The use of PA systems to be prohibited unless required specifically for safety announcements.</p> <p>Duty Manager to supervise the playing of outdoor music to ensure compliance with the premises license and environmental legislation.</p>
Deliveries and Collections	<p>Deliveries and collections to be permitted between the hours of 07.00 and 18.00 only and not at all on Sundays or Public Holidays</p>
Smoking Shelters, External Seating areas	<p>Smoking shelter and external seating areas sited away from residential properties as far as is reasonably practicable.</p> <p>External areas to be supervised by staff.</p>

	<p>No use of external seating areas beyond 22.00 hours.</p> <p>Staff to monitor behaviour / conduct of customers at all times.</p>
Gardens and Play Areas	<p>Garden and play areas sited away from residential properties as far as is reasonably practicable.</p> <p>External areas to be supervised by staff.</p> <p>No use of garden and play areas beyond 22.00 hours.</p> <p>Staff to monitor behaviour / conduct of customers at all times.</p>
Customers and Car Parks	<p>Registered door staff to be employed to supervise entry and exit from premises during entertainment events.</p> <p>Zero tolerance policy for anti-social behaviour.</p> <p>Manager / Duty Supervisor members of Pub Watch</p> <p>Colour recorded CCTV covering public areas.</p> <p>Clear signage of exits.</p> <p>Supervise smoking areas and external seating areas.</p> <p>Doors staff / staff to discourage loitering and encourage dispersal of clients in a quiet and orderly fashion.</p> <p>Notices displayed at exits from premises asking customers to leave in a quiet and orderly fashion to show respect to our neighbouring properties.</p> <p>Staff to recommend taxi companies.</p>
Refuse and recycling bins, bottles and stores	<p>Refuse collection, barrel movement and bottling out will be permitted between the hours of 07.00 and 18.00 only.</p>

Complaints Procedure

Regular contact with neighbouring properties to ensure good relationships are maintained, provide direct contact details for owner and manager.

All complaints will be recorded and investigated by the Manager / Owner to resolve the issue swiftly and amicably where possible.

Should regular complaints be received noise limiting equipment will be fitted to the power supply to the entertainment.

Signed:



Dated: 6th March 2015