

The Highland Licensing Board

Meeting – 16 June 2015

Agenda Item	11.5
Report No	HLB/070/15

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

The Shieling (formerly Loch Inn), Auchtercairn, Gairloch, IV21 2BH

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by Crerar Gairloch Ltd, 4 Gordon Street, Nairn, IV12 4DX

1.0 Description of Premises

1.1 The premises consist of a Y shaped property on one level with a vaulted roof located at Loch Gairloch offering restaurant facilities and a public bar for the local community and tourists to Gairloch. The premises currently trade On Sales only.

2.0 Current Operating Hours

2.1 The premises currently enjoy the following operating hours:

On sales:

Monday to Friday: 1100 hours to 0100 hours
Saturday: 1100 hours to 2400 hours
Sunday: 1230 hours to 2330 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

- (1) Change the premises name to 'The Shieling' (formerly Loch Inn).
- (2) Increase on-sales hours on Saturday to terminate at 01.00 hrs.
- (3) Increase on-sales licensed hours on a Sunday to commence at 11.00 hrs and terminate at 01.00 hrs.

(4) Of new, to include off-sales commencing at 11.00 hrs and terminating at 22.00 hrs, Monday-Sunday.

(5) Delete existing seasonal variation and substitute "The premises may take advantage of any extended hours which may be available in terms of the Board's statement of licensing policy, including the festive season."

(6) To the list of activities and services provided, add outdoor drinking facilities during and outwith core hours.

(7) To the list of activities and services available outwith core hours add restaurant facilities and music with amended explanation.

(8) To other activities, add charity and fundraising events.

(9) Amend children and young persons' terms of entry in accordance with Board policy as follows:

6(b) Children are permitted but must be accompanied by a suitable responsible adult. At the discretion of the management, unaccompanied young persons are permitted, otherwise they must be accompanied by a suitable responsible adult.

6(c) All ages.

6(d) Children are excluded from the premises after 22.00 hrs, unless consuming a meal or attending a function. At the discretion of the management, unaccompanied young persons may be permitted on the premises at all times failing which, they must be in the company of a suitable responsible adult.

6(e) All public parts of the premises.

4.0 Background

4.1 On 1 April 2015 the Licensing Board received an application for a major variation of a Premises Licence from applicant Crerar Gairloch Ltd, 4 Gordon Street, Nairn IV12 4DQ, per Donald Crerar.

4.2 The application was publicised during the period 27 April until 18 May 2015 and confirmation that the site notice was displayed has been received.

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, Gairloch.

4.5 Further to this publication and consultation process, no timeous objections or representations have been received.

- 4.6 The applicant must nevertheless be given the opportunity to be heard before the Board determines the application and has accordingly been invited to 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:-

The applicant has refreshed the business plan for the premises and seeks to vary the premises licence to take advantage of additional trading opportunities.

It is noted that there is an existing outdoor drinking area available during core licensed hours and in respect of which no additional condition was imposed.

The applicant wishes to make that facility available prior to the commencement of licensed hours and it is not considered necessary to impose any restriction on its use.

The variations sought are reasonable and appropriate for this type of premises and operation and should not conflict with any of the licensing objectives subject to the retention of existing conditions and the imposition of the undernoted additional conditions.

7.0 HLB Local Policies

7.1 The following policies are relevant to the application:-

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

Retain existing local conditions and add:

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.

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.

8.3 Special Conditions

The Board may wish to consider attaching the following special condition(s):

And

Highland Licensing Board special condition:

1. 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 condition(s) detailed at para(s). 8.2 and 8.3 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/RSL/0279

Date: 20 May 2015

Author: Wendy Grosvenor

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