

The Highland Licensing Board

Meeting – 05 January 2016

Agenda Item	6.3
Report No	HLB/006/16

Application for a major variation of premises licence under the Licensing (Scotland) Act 2005

Loch Insh Watersports, Kincaig, by Kingussie PH21 1NU

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by Cairngorm Canoeing and Sailing School Ltd, Insh Hall, Kincaig, by Kingussie PH21 1NU per Jonathan Freshwater.

1.0 Description of Premises

1.1 The premises comprise a licensed restaurant and bar area, including balcony with extended bar, outside areas to games dome and Insh Hall. Currently offering on sales.

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
Sundays: 1230 hours to 2300 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

Operating Plan:

1. Extension of opening hours: Monday to Saturday to 0100 hours. Sunday from 1100 hours to 0100 hours.
2. Addition of Off Sales: Monday to Sunday 1000 hours to 2200 hours.
3. Addition of Seasonal Variation.
4. Addition of take-away food sales.
5. Amendment to Children's Policy: 'Children and Young Persons will be allowed at all times when accompanied by an adult.'
6. Increase of licensed area.

Layout Plan:

1. Licence to cover the entire site. This to include the current footprint and extend to area north of premises, beach area, games dome and up to Insh Hall.

Premises Licence.

1. Change of name of the premises to Loch Insh Watersports
2. Change to description: 'Licensed restaurant and bar area, including balcony with extended bar, outside areas to games dome and Insh Hall.'

4.0 Background

- 4.1 On 29 October 2015 the Licensing Board received an application for a major variation of a premises licence from Cairngorm Canoeing and Sailing School Ltd, Insh Hall, Kinraig, By Kingussie PH21 1NU per Jonathan Freshwater.
- 4.2 The application was publicised during the period 09 November until 30 November 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, Kinraig.
- 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 premises are a purpose built holiday complex which include a restaurant with adjoining bar, games area and holiday chalets and the Insh Community Hall. Prior to this application the premises have run as a restaurant with bar facilities. The licensing history has been trouble free and compliance visits by the LSO have shown appropriate observance of the Licensing Objectives and compliance with the premises licence conditions and operating plan.

Application has been made to extend the core on sales hours of the premises to conclude trading at 0100 hours each day. Sunday trading is to commence from 1100 hours. Off Sales are requested to be sold daily from 1000 hours to 2200 hours. These hours are within the policy hours of the Highland Licensing Board and in respect of the type of operation run by the applicants. The LSO foresees no adverse impact on any of the Licensing Objectives.

A seasonal variation is asked for as on occasion the premises host festive functions. They accept the local condition requiring notification to the Board and Police (Scotland) of the dates of operation. Previous applications for extended hours have caused no complaint.

Within Section 5(f) takeaway meals are requested as an additional activity. This is to allow additional business to the restaurant to service nearby camping and caravan sites as well as customers with self-catering accommodation. It is also for this reason that off sales have been requested, to allow persons buying takeaway meals to purchase ancillary alcohol to take back to their accommodation.

Also within Section 5(f) is the activity of occasionally erecting a marquee within the grounds to facilitate a summer wedding. The venue has hosted several weddings in the past. The premises are sufficiently well removed from neighbouring property to negate issues such as public nuisance.

The existing children and young persons' policy has been simplified so that children and young persons' require to be accompanied at all times by an adult when on the premises.

The description of the premises has been varied to reflect the revised lay out with additional inclusions. Revised layout plans have also been submitted.

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

Existing local conditions will continue to apply and it is recommended that the following additional local condition(s) be attached:

- The following additional local licensing conditions are recommended: A and Q.
- (A) Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.
- (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.

8.3 Special Conditions

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

- (1) On any occasion when the premises are permitted to be open after 0100 hours the following conditions shall apply;
- (2) A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hours. (Mandatory Condition).
- (3) A designated person who is the holder of a personal licence must be present on the premises from 0100 hours. (Local Condition).

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/INBS/111

Date: 2 December 2015

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