

## The Highland Licensing Board

Meeting – 2 February 2016

Agenda Item	11.2
Report No	HLB/017/16

### Premises Licence Review Application

Premises: Caledonian Hotel, The Square, Beaully, IV4 7BY

Licence Holder: Iain Mckay Campbell, Caledonian Hotel, The Square, Beaully IV4 7BY

### Report by the Clerk to the Licensing Board

#### Summary

A premises licence review application under Section 36 of the Licensing (Scotland) Act 2005 has been received from the Scottish Fire and Rescue Service and the Board must accordingly hold a hearing to determine the application.

#### 1. Background

The premises to which the review application relates are known as The Caledonian Hotel, The Square, Beaully, IV4 7BY.

The premises (currently not trading voluntarily) is an hotel over three floors in a terraced building located in a central location in the village of Beaully, in a mixed commercial and residential area. There is a beer garden to the rear. The accommodation comprises: 9 letting bedrooms, dining room, lounge bar and public bar.

#### 2. Legislation

2.1 In terms of section 36 of the Licensing (Scotland) Act 2005 (the "Act") any person may apply to the Board, in respect of any licensed premises in relation to which a premises licence has effect, for a review on any of the following grounds:-

- (a) that one or more of the conditions to which the premises licence is subject has been breached, or
- (b) any other ground relevant to one or more of the licensing objectives

### **3. Premises Licence Review Application**

A review application was received on 1 December 2015 from the Scottish Fire and Rescue Service and is attached to this Report as Appendix 1.

The application alleges that there has been a breach of the licensing objective relating to public safety.

### **4 Review Hearing**

**4.1** Section 38(1) of the Act provides that where the Board receives a premises licence review application it must hold a hearing for the purposes of considering and determining the application.

**4.2** Section 38(4) of the Act provides that the Licensing Standards Officer must, before the review hearing, prepare a report on the application which the Board must take into account. This report dated 2 December 2015 is attached as Appendix 2.

**4.3** A copy of this Report and the appendices have been sent to the premises licence holder, Iain McKay Campbell, Caledonian Hotel, The Square, Beaulieu IV4 7BY, who has been invited to attend the hearing.

**4.4** A representative of the Scottish Fire and Rescue Service has also been invited to attend the hearing.

### **5. Board's powers on review**

**5.1** In terms of section 39 of the Act the Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review application considered at the hearing), take such of the steps listed below as it considers necessary or appropriate for the purposes of any of the licensing objectives:

- (a) issue a written warning to the licence holder,
- (b) make a variation of the licence,
- (c) suspend a licence for such period as the Board may determine,
- (d) revoke the licence.

On making a variation the Board may provide for the variation to apply only for such period as they may determine.

**5.2** It should be noted that, even if the Board is satisfied, after hearing from the Scottish Fire and Rescue Service, that a ground for review is established, the Board is not obliged to take any of the steps listed above. The Board is entitled to take no action.

In terms of Section 84 of the Act where, in the course of a review hearing in respect of a premises licence, the Board makes a finding in relation to the personal licence holder who was working in the licensed premises that the personal licence holder concerned acted in a matter which was inconsistent with any of the licensing objectives, then the Board must hold a further hearing,

#### **4. Recommendation**

The Board is invited to determine the premises licence review application by way of a review hearing.

Designation: Clerk of the Highland Licensing Board

Date: 2 December 2015

Ref: HC/INBS/168

Background Papers: The Licensing (Scotland) Act 2005

Appendix 1: Review application from the Scottish Fire and Rescue Service dated 24 November 2015

Appendix 2: Report from Ian Cox, Licensing Standards Officer, dated 2 December 2015

**RECEIVED**  
24 NOV 2015

**REVIEW APPLICATION IN RELATION TO A PREMISES LICENCE UNDER THE  
LICENSING (SCOTLAND) ACT 2005**

Please read the Board's Guidance Notes on How to make a Premises Licence Review Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes. Remember, if a review is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the applicant.

**1. Full Name and Address of person making the Review Application:**

Name and Address:	Station Manager Dave Latto Scottish Fire and Rescue Service Strathore Road Thornton Fife KY1 4DF
Telephone Number:	01592 776012 07764 662907
Email Address:	Dave.latto@firescotland.gov.uk

**2. Address of Premises in respect of which the Review Application is made:**

Caledonian Hotel The Square Beaully IV4 7BY
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**3. Details of any breach of a licensing condition(s) to which the Premises Licence is subject:**

<b>Details of breaches of condition(s)</b>

4. Details of any ground relevant to one or more of the Licensing Objectives:

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
Licensing Objectives:	Please tick relevant objections v	Brief details of complaint (Please use separate sheet if necessary)
1. Preventing crime and disorder		
2. Securing public safety	√	<p>The premises are subject to an Enforcement Notice issued under section 64 of The Fire (Scotland) Act 2005 (As amended) due to a number of fire safety issues. One of the requirements of the notice was to commission an electrical installation report due to concerns with the mains electrics within the premises.</p> <p>The testing was carried out in May 2015 and the findings confirmed the dangerous condition of the wiring within the premises. The outcome of the test is as follows:-</p> <p>“The distribution equipment is in a poor overall state and is beyond economical repair. It is essential that parts of the building are rewired as the risk of electrocution and electrical fire is present which may result in serious injury to users of the installation”</p> <p>The licensee has ceased trading at this time as the conditions are considered so serious that a Prohibition Notice under section 63 of The Fire (Scotland) Act 2005 (As amended) would be served if he were to continue to have members of the public on the premises, especially for the purpose of sleeping.</p> <p>During a recent meeting Mr. Campbell, the licensee, indicated that he is not in a financial position to carry out the necessary repair work as he has no income. He further indicated that he would be exploring the possibility of opening up the bar area for the provision of selling alcohol.</p> <p>It is the view of the Scottish Fire and Rescue Service that the premises have now deteriorated to such an extent that they pose a serious risk to public safety and therefore request that a review of the licence held in respect of the premises is undertaken by the licensing board.</p> <p>There is also a serious concern regarding the safety of the Licensee and his partner who reside in the premises, however this falls out with the scope of the Fire (Scotland) Act 2005 (As amended). The Scottish Fire and Rescue Service have however informed both Highland Council Building Control and Environmental services of the building conditions.</p>

3. Preventing public nuisance		
4. Protecting and improving public health		
5. Protecting children from harm		

Signature: 

Date. 24<sup>th</sup> November 2015



### Licensing Standards Officer's Report

The Caledonian Hotel, The Square, Beauly, IV4 7BY, is operated under an alcohol premises licence HC/INBS/168. The annual fees for the premises for the period up to 1st October, 2016 have been paid by the premises licence holder Mr Iain McKay Campbell.

Mr Campbell is the holder of a Scottish Personal Licence HC/INBS/PERS/09/450 which has been issued by the Highland Licensing Board. Mr Campbell has timeously fulfilled the requirement to undertake refresher training and is currently the premises manager as well as its owner.

The current status of the hotel is that whilst it is currently licensed it is voluntarily not trading. This arrangement has been verified by the Licensing Standards Officer in a visit to the premises on Wednesday 18th November, 2015. The public bar area of the premises is currently empty and devoid of alcohol stock.

On Thursday, 12th November, 2015, The LSO attended a multi-agency meeting called by the Scottish Fire and Rescue Service, together with officers of the Environmental Health and Building Standards Services of Highland Council. Serious public safety concerns were broached at this meeting concerning potential fire risk at the premises, with the resultant decision that a review of the premises licence would be sought by Dave Latto, Station Officer, SFRS. I subsequently have given advice and guidance on the process to apply for a premises licence review on grounds of licensing objective 2, Public Safety to Dave Latto of the SFRS.

I have inspected the Caledonian Hotel in my role as LSO and have given advice and assistance in the past to Mr Campbell. It is my impression that in the years since transition in 2009 to the new licensing system that the premises have only operated in a very low key way in respect of the sale of alcohol.

Ian Cox Licensing Standards Officer

2 December 2015