

## The Highland Licensing Board

Meeting – 29 March 2016

Agenda Item	9.1
Report No	HLB/028/16

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

West Highland Hotel, Mallaig, PH41 4QZ

#### Report by the Clerk to the Licensing Board

##### Summary

This report relates to an application for a major variation of premises licence by the partnership of Sine and Gavin Davis, Trustees of the firm of West Highland Hotel, Mallaig, PH41 4QZ.

#### 1.0 Description of premises

1.1 The West Highland Hotel is a detached three storey Hotel overlooking the village of Mallaig.

#### 2.0 Current operating hours

2.1 The premises currently enjoy the following operating hours:

##### On sales:

Monday to Wednesday: 1100 hours to 2400 hours  
Thursday to Saturday: 1100 hours to 0100 hours  
Sunday: 1200 hours to 2345 hours

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

- (1) Increase core terminal hour Monday/Tuesday/Wednesday from 2400 hours to 0100 hours
- (2) Increase core opening hour on Sunday from 1200 hours to 1100 hours and terminal hour from 2345 hours to 0100 hours
- (3) Include provision of off-sales, Monday to Sunday from 1000 hours to 2200 hours
- (4) Include within seasonal variation that the premises may take advantage of the Board's policy hours for the festive season
- (5) Increase activities within operating plan to include indoor/outdoor sports, televised sports

- (6) Increase capacity of premises from 280 to 300 persons
- (7) Extend footprint of premises
- (8) Amend layout plan to incorporate alterations to ground floor, mezzanine and external drinking areas
- (9) Update description of premises

#### **4.0 Background**

- 4.1 On 16 February 2016 the Licensing Board received an application for a major variation of a premises licence from the partnership of Sine and Gavin Davis.
- 4.2 The application was publicised during the period 18 February 2016 until 10 March 2016 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. As Mallaig Community Council are not currently constituted they could not be notified of the application.
- 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](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:-

- (i) The core hours applied for are within the policy of the Highland Licensing Board.
- (ii) The premises have previously only been licensed to sell alcohol “on” the premises and are seeking to include the provision of off-sales within their licence.
- (iii) The applicant seeks to include within the seasonal variation of the operating plan, permission to take advantage of the Board’s policy in relation to the Festive Period. The operator of the premises has a sound operating history and accepts that the relevant mandatory late opening condition, special condition and local condition will apply.
- (iv) The additional activities sought within the operating plan, namely indoor/outdoor sports, televised sports would appear to be reasonable and appropriate for the operation of the premises.
- (v) The proposed changes to the layout of the premises would appear reasonable and appropriate for the type of premises.
- (vi) The layout plan submitted complies with the required specifications.
- (vii) The description of the premises has been updated to reflect the proposed variation.
- (viii) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.

## **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:

- 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 Mandatory condition – late opening premises**

When the premises are operating as late opening premises ie. the festive policy, then the following mandatory condition will apply:

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 0500 hours

### **8.4 HLB special condition**

When the premises are operating as late opening premises ie. the festive policy, then the following condition will apply:-

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

## **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 paras 8.2, 8.3 and 8.4 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/1120

Date: 16 March 2016

Author: AHM:ET/JT

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