

The Highland Licensing Board

Meeting – 10 May 2016

Agenda Item	9.1
Report No	HLB/040/16

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

Crofter Bar & Restaurant, 7-11 High Street, Fort William

Report by the Depute Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Bamon Limited, 7-11 High Street, Fort William, PH33 6DH.

1.0 Description of premises

1.1 The Crofter Bar & Restaurant is situated on the High Street in the town centre area of Fort William and consists of a public bar and lounge bar with restaurant area. There are three access points leading to the premises: one from the High Street into the public bar area, one from the High Street into the lounge bar/restaurant area and the third from Middle Street leading into the lounge bar/restaurant area. Middle Street runs parallel to High Street and both are covered by CCTV.

There is no partition separating the public bar from the lounge bar with a horse-shoe shaped bar counter servicing both bars. The male toilets are accessible from the public bar area and the female and disabled toilets from the lounge bar.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Wednesday: 1100 hours to 0000 hours
Thursday to Sunday: 1100 hours to 0100 hours

Off sales:

Monday to Sunday: 1100 hours to 2200 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Increase terminal on-sale hour from 0000 hours to 0100 hours Monday, Tuesday and Wednesday;
- (2) Increase terminal on-sale hour from 0100 hours to 0200 hours on Saturday;
- (3) Include within section 5 (f) - any other activities that the premises will operate as late opening premises;
- (4) Update section 5(g) – to more customers standing than seated;
- (5) Update children and young persons policy to reflect operation as late opening premises.

4.0 Background

4.1 On 29 March 2016 the Licensing Board received an application for a major variation of a premises licence from Bamon Limited.

4.2 The application was publicised during the period 31 March 2016 until 21 April 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.

The local Community Council are not currently constituted therefore no consultation took place.

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 currently operate as a restaurant and general on-sales premises during the day and on Saturday evenings the applicant proposes to offer a mixture of live music and DJ entertainment from 2200 hours. In accordance with the Board's policy adopted on 1 October 2013, and to take advantage of the late night economy, the applicant wishes the premises to be considered as "hybrid" premises, and thereby seeks to increase the existing terminal hour on Saturday evenings from 0100 to 0200 hours.
- The applicant has stated that significant entertainment in the form of live music and DJ entertainment will be provided continuously from 2200 hours until the conclusion of the terminal hour. The applicant is aware of and accepts the condition relating to the sale of alcohol being ancillary to the entertainment provided. At present, entertainment is pre-advertised on the premises web-site, facebook page and the external noticeboard located at the entrance to the premises and this practice will continue.

- When the premises is operating as late opening premises, the pool table, which is located to the rear of the lounge bar will be removed to provide a dedicated dance floor area. A copy of the ground floor layout plan is attached as Appendix (1) in this regard.
- The application states that the music level will not exceed 85db and when fully occupied there are likely to be more customers standing than seated.
- The capacity detailed within the current premises licence is less than 250, namely 200 persons.
- The licence-holder has stated that if the application is successful the premises will comply with the requirements of the late opening conditions and that hot and cold food will also be available and advertised within the premises.
- The licence-holder is currently preparing a noise management plan together with drugs and evacuation policies for approval by the Licensing Board.
- The additional increase in core hours sought on Monday, Tuesday and Wednesday evenings are within the Board's policy adopted on 1 October 2013.
- The additional activities sought are reasonable and appropriate for the type of operation of the premises.
- The description of the premises has been updated to reflect the proposed variation.
- The premises are a popular local establishment frequented by a wide age range.
- The children and young persons policy has been updated to reflect the operation as late opening premises. No under 18's will be permitted when the premises is operating as late opening premises.
- The licence-holder attends Pubwatch meetings regularly.
- Although the requirement for stewarding is not an existing local condition attached by the Licensing Board, it is implemented at peak times for effective management.
- The applicant proposes to install a CCTV system within the premises if the application to become late opening premises is successful.
- The premises has been visited on several occasions and found to be compliant in observing the requirements of the Licencing (Scotland) Act 2005.
- There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives and the premises are considered suitable for use for the sale of alcohol in accordance with the proposed application.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (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

As a consequence of the Licensing Board's Policy Statement 2013-18, it may be appropriate to remove all existing local conditions and substitute them with the following:

- G: Premises open for the sale of alcohol after 0100 hours shall have available a selection of hot and cold foods and shall advertise this within the premises.
- H. Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.
- J. After 2200 hours, when the premises is operating until 0200 hours, the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.
- N. The licence holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.
- O. On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 2200 hours.

8.3 Late opening conditions

If the application is approved it is recommended that the mandatory late opening conditions set out in schedule 3 of the Act should apply as follows:-

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00 am (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) 5.00am

2. A designated person who is the holder of a personal licence must be present on the premises from 1.00am (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) 5.00am or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning:-
 - (a) the evacuation of the premises, and
 - (b) the prevention of the misuse of drugs on the premises.
4. A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001(1) must be positioned at every entrance to the premises from 1.00am (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) 5.00am or such other time as the Licensing Board may specify.

8.4 **Special conditions**

Having regard to the location of the premises and given that residential properties are located above and to the rear of the premises, the Board may wish to consider attaching the following special conditions:

- All glass disposal operations shall cease between the hours of 2300 hours and 0800 hours the following day.
- All live vocals or amplified music will be so controlled after 2300 hours that it shall be inaudible in nearby residential property.

Recommendation

The Board is invited to determine the above application and give consideration to:

- (i) Updating the existing local conditions as referred to at para. 8.2 of the report;
- (ii) If the Board are minded to grant the application as outlined at para. 2.1, in addition to the mandatory and local conditions, consideration be given to attaching the late opening conditions as referred to at Para 8.3 and proposed special conditions as referred to at para. 8.4 of the report;

or

- (iii) If the Board are 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/0437

Date: 26 April 2016

Author: Julie Traynor

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

Appendix: Ground floor layout plan of premises

