

The Highland Licensing Board

Meeting – 9 August 2016

Agenda Item	8.1
Report No	HLB/066/16

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

Mackays Hotel and Spa Lodge, The Square, Strathpeffer

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by Hart Hotels Limited

1.0 Description of premises

1.1 Mackays Hotel and Spa Lodge was granted a premises licence, on transition, on 1 September 2009. It is a hotel and leisure complex.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday 1100 hrs to 2300 hrs
Sunday: 1230 hrs to 2300 hrs

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Increase on-sales licensed hours on a Saturday and Sunday to terminate at 0100 hrs the following day.
- (2) Increase licensed hours on a Sunday to commence at 1100 hrs.
- (3) Add a seasonal variation to take advantage of any period of extended hours agreed by the Board over the festive period.
- (4) To the list of activities and services outwith core hours add the outdoor drinking area.

- (5) Amend wording of the justification for activities and services to be provided outwith core hours.
- (6) At other activities and services to be provided delete references to a computer network and televisions and add charity and fundraising events.
- (7) Amend children and young persons terms of entry by substituting the term "suitable, responsible adult" for "parent or guardian"
- (8) In respect of young persons amend the terms of entry so as to allow, at the discretion of the management, young persons to be on the premises otherwise than when accompanied by an adult.
- (9) Amend the children and young persons "parts of the premises" section so as to read "All public parts of the premises subject to the terms of entry"

4.0 Background

- 4.1 On 13 June 2016 the Licensing Board received an application for a major variation of a premises licence from Hart Hotels Limited.
- 4.2 The application was publicised during the period 27 June to 18 July 2016 and confirmation that the site notice was displayed during this time 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.
- 4.5 Further to this publication and consultation process, no timeous objections or representations have been received, but expressions of support have been received from the following:-
 - Maureen Cameron
 - Shirley Stephenson and Maureen McCluskie, The Real Sweets and Gift Company, Strathpeffer
 - Sian MacLean
 - Jamie Kellas

Copies are attached as appendices.

- 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:-

1. The premises are situated in the centre of Strathpeffer in the vicinity of, mainly, commercial properties.
2. Following a review of customer demand the licence holder applied to vary the licence and increase licence hours in line with Board policy. The licence holder has stated that there is no intention to provide all the current activities and services beyond 2300 hrs on any day other than on an occasional basis for small private events. The applicant has, to date, made application for extended hours when catering for such events.
3. The applicant also intends to take advantage of any period of extended hours agreed by the Board during the festive period subject to relevant conditions.

4. Under the current operating plan, the outdoor drinking area cannot be used prior to 1100 hrs on any day and the applicant seeks to vary the plan so as to permit customers to use the area outwith core hours. There is currently a condition requiring that the outdoor area shall not be used after 2200 hrs on any day for the consumption of alcoholic or non-alcoholic drinks.
5. Use of the outdoor drinking area prior to 1100 hours should cause no conflict with any licensing objective.
6. The opportunity has also been taken to address some inconsistencies and ambiguities contained in the operating plan for the premises and to remove some extraneous information. None of the changes are significant or affect the traditional operation of the business.
7. The variations sought are reasonable and appropriate for this type of business. There would not appear to be any potential for conflict with any of the licensing objectives.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

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

Existing local conditions will continue to apply and it is recommended that the following additional local condition 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 Late opening premises conditions

The following shall apply on any occasion that the premises are open after 0100 hrs.

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.

2) 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 conditions detailed at paras 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/0714

Date: 26 July 2016

Author: G Sutherland

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

Appendices: Maureen Cameron – Email dated 28 June 2016

Shirley Stephenson and Maureen McCluskie, The Real Sweets and Gift Company, Strathpeffer – Email dated 29 June 2016

Sian MacLean – Email dated 1 July 2016

Jamie Kellas – Email dated 3 July 2016

Lisa Donaldson - Wick

From: Maureen Cameron <mcameron1967@me.com>
Sent: 28 June 2016 19:36
To: Licensing
Subject: Mckays Strathpeffer

Good evening,

I would like to show my support for the extended hours at our local hotel, this would be good for the community and guests.

Thanks

Mrs Cameron

Sent from my iPhone

Lisa Donaldson - Wick

From: TheRealSweetsCompany <realsweets@me.com>
Sent: 29 June 2016 15:47
To: Licensing
Subject: Mackay's Hotel, Strathpeffer

Dear Sir/Madam,
Regarding the above application.

As proprietors of a tourist business and offering tourist information, we get numerous tourists looking for a bar/pub where they can relax and socialise, but there is nowhere providing this at the moment. A later license will be in line with tourist venues in most areas and will allow more flexibility for special events.

As residents of the village for a number of years now, we also would welcome a venue that can offer a later license as is found in most places, especially when there's a local event. We've never witnessed any problem previously when later licenses are applied.

We therefore fully support this application as it's of benefit to both visitors and residents of Strathpeffer.

Yours,
Shirley Stephenson
Maureen McCluskie

*The Real Sweets & Gift Company
The Pump Room,
Strathpeffer,
IV14 9DY
Giftshop & Gallery, Spa Exhibition & Sweetshop
(and find us on Facebook)
Tourist Information Point in Partnership with Visit Scotland*

Sent from my iPad

Lisa Donaldson - Wick

From: sianmaclean1@gmail.com
Sent: 01 July 2016 20:51
To: Licensing
Subject: Mackays Hotel, Strathpeffer - Late Licence

Good evening,

I am writing regarding the liquor license extension that Mackays Hotel has recently applied for which would mean the bar could be open until 1am on a Friday and Saturday. As a resident of Strathpeffer I believe that the late license would benefit the village as currently there is only a bar open until 11 o'clock which isn't very sociable for the locals, tourists and other personnel. I do not believe in anyway that this late licence would cause any issues for any business or people close by.

Kind Regards,

Sian MacLean.

Lisa Donaldson - Wick

From: jamie kellas <jamiekellas@hotmail.co.uk>
Sent: 03 July 2016 18:56
To: Licensing
Subject: Licensing hours for Mackays Hotel

I am writing this email in regard to the proposed late license at Mackays Hotel. As there are no other pubs or hotels in the village which open late, I believe this would be a positive step for both the hotel and the village itself.

Kind regards,

Jamie Kellas