

## The Highland Licensing Board

Meeting – 9 August 2016

Agenda Item	8.4
Report No	HLB/069/16

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

Glen Mhor Hotel, 8-15 Ness Bank, Inverness, IV2 4SG

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

##### Summary

This Report relates to an application for a major variation of premises licence by Glen Mhor Limited, 21 St Thomas Street, Bristol, BS1 6JS.

#### 1.0 Description of premises

1.1 Hotel comprising seven separate town houses. The main building of the hotel is spread over three floors (including ground level) and includes two restaurant areas and a bar on the ground floor. The above two floors of the main building are for accommodation. At the front of the main building, on either side of the entrance to reception, is also an outdoor eating area (weather permitting as it is not permanently covered). Next to Nicky Tam's Bar and also to the side of Nico's Bistro is a small paved area for outdoor eating. Both of these areas are used throughout summer to serve meals and drinks.

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

- (1) Increase within Section 7 of operating plan to reflect additional capacity of extension of outside drinking area.
- (2) Extension to outside drinking area between the main hotel and "the cottage"
- (3) Change 4<sup>th</sup> sentence of the description to read:

"At the front of the Hotel main building is a licensed outside area extending to the area between the main building and "The Cottage" accommodation".

## **4.0 Background**

- 4.1 On 16 May 2016 the Licensing Board received an application for a major variation of a premises licence from Emmanuel Moine.
- 4.2 The application was publicised during the period 30 May until 20 June 2016 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.
- 4.5 Further to this publication and consultation process, no timeous objections or representations have been received. One non-timeous objection has been received. While this has been copied to the applicant, the Board may consider it only if first satisfied that the failure to lodge the objection timeously was due to mistake, oversight or other excusable cause. The late objector has been invited to attend the meeting to address the Board on this. The late objection will be circulated to members at the meeting if, having heard from the late objector and the applicant, they are so satisfied.
- 4.6 The applicant must 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 Glen Mohr Hotel is a substantial hotel situated on the east bank of the River Ness. Over the last few years the hotel has increased its estate by incrementally purchasing neighbouring houses, which have been included within the licensing footprint of the hotel, as additional annexes.

(ii) The operating history of the hotel is very satisfactory and compliance visits made by the Licensing Standards Officers have shown the hotel to be compliant with the requirements of the Licensing (Scotland) Act 2005.

(iii) During the course of recent expansions in estate, an outside area between the main hotel and “the cottage” annex has been omitted from the licensed area. This area is quite substantial, and is paved in lock block paving forming a very adequate outside area. The hotel historically has a small real ales festival in this area which has operated in the past under the authority of an occasional licence. This application now seeks to bring this area within the overall licensing footprint of the premises.

(iv) On occasion the premises have sought to operate light musical entertainment within the outside area. This has always been done in a considerate way by the management, although repetitious complaint has been received from a neighbour, Mr William Dixon. Despite there being several dozen neighbouring properties, no other complaints have been received. Inspection and investigation by the LSO revealed the music to be considerate and confined to reasonable hours.

(v) Currently all other outside areas carry a local licensing condition that the consumption of alcoholic and non alcoholic drinks should stop by 2200 hours. The LSO believes this is satisfactory to be generically applied to this new area.

(vi) A specific condition requiring a live or recorded music to cease to operate by 2100 hours at the latest is proposed by the LSO, in line with the third licensing objective.

(vii) Mr Dixon has been in contact with the LSO on a number of occasions during the advertising of this major variation, and has been given advice on how to submit an objection or representation, to date he has submitted neither, but has voiced an intention of appearing personally at the Licensing Board meeting.

## **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 no additional local conditions are considered necessary.

### **8.3 Special conditions**

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

- (1) Should any live or recorded music be played in any outside drinking area it will require to terminate at the latest by 2100 hours (licensing objective 3)

## **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the special condition(s) detailed at para(s) 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/165

Date: 5 July 2016

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