

The Highland Licensing Board

Meeting – 9 August 2016

Agenda Item	8.5
Report No	HLB/070/16

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

Ben Mhor Hotel, 53-57 High Street, Grantown on Spey, PH26 3EG

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by Gary John Booth, Ben Mhor Hotel, 53-57 High Street, Grantown on Spey, PH26 3EG.

1.0 Description of premises

1.1 Ben Mhor Hotel is a substantial detached hotel with bar, bistro and function room situated on High Street, Grantown on Spey

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Wednesday: 1100 hours to 2400 hours
Thursday to Saturday: 1100 hours to 0100 hours
Sunday: 1100 hours to 2400 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) On sales to terminate at 0300 hours on Thursday, Friday and Saturday rather than 0100 hours

(2) On sales to terminate at 0100 hours from Sunday-Wednesday rather than 2400 hours.

(3) Revised children and young person policy to read:

6(b) Children will be allowed into the Hotel when accompanied by an adult. Young persons will be allowed into the Hotel unaccompanied to the restaurant area only. When in any room with a bar counter they require to be accompanied by an adult.

6(c) 0-17.

6(d) When residents, children and young persons can access the hotel at all times. When non-residents, children and young persons are given access until 2300 hours. When the function suite is being used as a late hours venue, children and young persons will not be granted access unless attending a private function, at management discretion.

6(e) All public areas.

(4) Extension of the current function suite bar into an 'L' shaped bar to provide a better customer service area.

4.0 Background

4.1 On 10 June 2016 the Licensing Board received an application for a major variation of a Premises Licence from Gary John Booth.

4.2 The application was publicised during the period 27 June until 18 July 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.

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:-

(i) The Ben Mohr Hotel is a substantial detached hotel situated on High Street, Grantown on Spey. The premises licence holder is Gary Booth who is also the premises manager and personal licence holder.

(ii) The LSO has conducted compliance visits to the hotel during Mr Booth's tenure and the premises have been run in accordance with the requirements of the Licensing (Scotland) Act 2005.

(iii) Application has been made to operate "late hours" in line with the policy contained within the Highland Licensing Board's current Policy Statement until 0300 hours on Thursday, Friday and Saturday evenings.

The applicant has stated that he has made this application due to local demand as, currently, locals require to travel to Aviemore if they wish to access late hours premises. The applicant has stated that he is fully able to fulfil the obligation to supply “significant entertainment continuously from 2200 hours”. This will be done by way of DJ provision or live performers. Dates of performances will be pre advertised through local media. The applicant is fully aware that the provision of alcohol is an ancillary issue to the entertainment and if there is no entertainment, his right to operate extended hours falls.

(iv) The late hours will solely apply to the function room of the premises which has a large dedicated dance floor, with areas for live performers and DJ’s to operate. 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.

(v) The applicant has stated that should this application be successful, the operation will comply with the full range of the mandatory late night conditions. In addition, the applicant is able to satisfy the local licensing condition requiring the provision of hot and cold food.

(vii) Currently the applicant is preparing a noise management plan and drug and evacuation policies to be approved by the Licensing Board. It is also the intention of the applicant to install a comprehensive CCTV system to the standard required by Police Scotland.

(viii) The children and young persons’ policy has been updated to reflect that no under 18 year old’s will be allowed to enter the part of the premises operating late hours.

(ix) Within the application, the general terms of the children and young persons’ policy has been amended, to reflect the status of these persons as residents and non residents. The LSO considers these amendments to be in keeping with the fifth licensing objective.

(x) Overall, there appears to be nothing within the context of this application that affects the licensing objectives in an adverse way.

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(s) be attached:

- (i) Any music or live performance will cease at 0245 hours.

- (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.

- (p) On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold and consumed on the premises after 0100 hours only in that part of the premises identified in the operating plan as the part of the premises in which significant entertainment is to be provided.

8.3 Special conditions

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

- (1) During the playing of any live or recorded music all windows and doors will remain shut. (licensing objective 3)

- (2) No glass disposal shall take place after 2300 hours or before 0700 hours. (licensing objective 3)

- (3) A written noise management plan acceptable to the Highland Licensing Board must be in place for the premises and any relevant activity or service being provided must be conducted in accordance with that plan. (licensing objective 3)

- (4) The late hours entitlement contained within this licence will only come into effect when acceptable Drug and Evacuation Policies have been lodged with the Board and confirmation has been received that a CCTV system approved by Police Scotland has been installed within the premises. (licensing objectives 1 and 2)

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed additional local and 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/INBS/568

Date: 19 July 2016

Author: Marjory Bain

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