

**The Highland Licensing Board**

**Meeting – 4 October 2016**

Agenda Item	10.5
Report No	HLB/093/16

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

**Balintore Hotel, East Street, Balintore**

**Report by the Clerk to the Licensing Board**

**Summary**

This Report relates to an application for a major variation of premises licence by Michael W Dwyer.

**1.0 Description of premises**

1.1 Balintore Hotel was granted a premises licence, on transition, on 1 September 2009. It operates as a hotel offering the usual range of activities and services.

**2.0 Current operating hours**

2.1 The premises currently enjoys the following operating hours:

**On sales:**

Monday to Friday: 1100 hrs to 0100 hrs  
Saturday: 1100 hrs to 2400 hrs  
Sunday: 1230 hrs to 2330 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 for on and off-sales on a Sunday to commence at 1100 hrs.
- (3) Change the name of the premises to Balintore Inn.

## **4.0 Background**

- 4.1 On 25 July 2016 the Licensing Board received an application for a major variation of a Premises Licence from Michael W Dwyer.
- 4.2 The application was publicised during the period 26 August to 16 September 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.
- 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.
- 5.3 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 proposed increase to the licensed hours are within policy and I have no cause to object to the grant of this premises licence variation

## **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**

No change to existing local conditions is required.

## **Recommendation**

The Board is invited to determine the above application and if minded to grant the application.

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/CSR/1482  
Date: 20 September 2016  
Author: G Sutherland  
Background Papers: The Licensing (Scotland) Act 2005/Application Form.