

## The Highland Licensing Board

Meeting – 4 October 2016

Agenda Item	10.6
Report No	HLB/094/16

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

Carron Restaurant, Cam-Allt, Strathcarron

Report by the Clerk to the Licensing Board

#### Summary

This Report relates to an application for a major variation of premises licence by Mary C McGale.

#### 1.0 Description of premises

1.1 Carron Restaurant was granted a premises licence, on transition, on 1 September 2009. It operates as a restaurant and coffee lounge, with a small retail section for alcohol and other specialist products.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Mondays to Saturdays: 1100 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 daily to terminate at 0100 hrs the following day, and on a Sunday to commence at 1100 hrs.
- (2) Add off-sales with licensed hours of Monday to Sunday from 1000 hrs to 2200 hrs
- (3) Add seasonal variation to take advantage of any period of extended hours agreed by the Board over the Festive Period.
- (4) Remove seasonal variation so as to permit year round trading.
- (5) To the list of activities and services during and outwith core hours add live music and outdoor drinking area.

- (6) Delete entry at operating plan 5(f) and substitute with “premises may trade from 0800 hrs on any day”.
- (7) Delete current other activities listed at operating plan 5(g) and add “retail of certain goods and charity and fundraising events, whisky, wine, beer and food tastings, barbecues”.
- (8) Amend children and young persons’ terms of entry so as to permit, at manager’s discretion, unaccompanied children to be on the premises until 1900 hrs after which, they must be accompanied by a suitable appropriate adult.
- (9) 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.
- (10) Amend layout plan to include extension forming an additional coffee lounge.
- (11) Increase capacity to 48 persons
- (12) Amend description of premises to include references to the outdoor drinking area, a small retail area and that there is no bar counter on the premises and sales of alcohol will not be restricted to persons taking a table meal on the premises.

#### **4.0 Background**

- 4.1 On 23 August 2016 the Licensing Board received an application for a major variation of a premises licence from Mary C McGale.
- 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 is awaited.
- 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 An observation was received from Building Standards on 5 September 2016 advising that there was currently a building warrant in place for the extension to the restaurant to form the coffee lounge. To date no application has been lodged for approval of a completion certificate.
- 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:

## **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:-

- a. The premises are detached and situated in a rural location near to the village of Strathcarron.
- b. 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.
- c. 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.

- d. In accordance with 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.
- e. Use of the outdoor drinking area prior to 1100 hrs should cause no conflict with any licensing objective.
- f. 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.
- g. I note the observation made by Building Standards and it may be appropriate to impose a condition restricting the use of the extension until such time as the completion certificate acceptance has been granted for that part of the premises.
- h. 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**

Retain existing local conditions and add:-

- 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 hrs (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.

### 8.4 Special condition

In respect of the extended part of the premises referred to as the coffee lounge, this varied licence shall not take effect and members of the public shall not be permitted into the coffee lounge until any notice of the grant of a completion certificate required to be issued by Highland Council Building Standards has been submitted to Highland Licensing Board.

#### **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, and to agree the proposed local/special conditions detailed at paras 8.2, 8.3 and 8.4 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/CSR/1005  
Date: 20 September 2016  
Author: G Sutherland  
Background Papers: The Licensing (Scotland) Act 2005/Application Form.