

The Highland Licensing Board

Meeting – 4 October 2016

Agenda Item	10.10
Report No	HLB/098/16

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

Union Tavern, 29 High Street, Fortrose

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by The Union Tavern Fortrose Limited.

1.0 Description of premises

1.1 Union Tavern was granted a premises licence, on transition, on 1 September 2009. The premises operate as a public bar offering the usual range of activities and services.

2.0 Current operating hours

2.1 The premises currently have the following operating hours:

On sales:

Mondays to Wednesdays:	1100 hrs to 2400 hrs
Thursdays and Fridays:	1100 hrs to 0100 hrs
Saturdays:	1100 hrs to 2400 hrs
Sundays:	1230 hrs to 2330 hrs

Off sales:

Mondays to Saturdays:	1100 hrs to 2200 hrs
Sundays:	1230 hrs to 2200 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 Monday to Wednesday, 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) Add a seasonal variation to take advantage of any period of extended hours agreed by the Board for the festive period.

4.0 Background

- 4.1 On 17 August 2016 the Licensing Board received an application for a major variation of a Premises Licence from The Union Tavern Fortrose Limited.
- 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 The following letters of objection/representative have been received and are attached as appendices:-
 1. Ian McLoughlin
 2. Angela Wilkinson
- 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

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 proposed increases to the licensed hours are within policy.
- b. I am aware that 2 letters of objection or representation have been received and I intend to make contact with the authors and with the applicant to discuss the matters raised. I will give a verbal update at the Board meeting and may then recommend additional conditions which may go some way to addressing the authors' concerns.

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 condition (h) was imposed in support of the licensing objective of protecting children from harm. As no persons under the age of 18 are permitted on the premises the condition can be removed.

Add following additional condition:-

- 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; and

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

Recommendation

The Board is invited to determine the above application and if minded to grant the application, agree the proposed local/special conditions detailed at paras 8.2 and 8.3 above, and agree the removal of local condition (h).

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/0595

Date: 20 September 2016

Author: G Sutherland

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

Appendices: Letter dated 13 September 2016 from Ian McLoughlin
Letter dated 14 September 2016 from Angela Wilkinson



FLAT 2
OLD TAVERN HOUSE
31 HIGH STREET
FORTROSE
ROSS-SHIRE
IV10 8SU

Mr Alaisdair H MacKenzie
Clerk to the Highland Licensing Board
Council Offices
Girnigoe Street
Wick
Caithness
KW1 4HW

13 September 2016

Dear Sir/Madam

Licensing (Scotland) Act 2005
Application for Variation of Premises Licence
Neighbour Notification – Union Tavern, 29 High Street, Fortrose

I am writing in response to your letter dated 24 August 2016 regarding the above.

I have one concern regarding the opening at 11.00am on Sundays as, in my opinion, the hours in place at the moment are more than ample. Living beside a pub, I expect some noise, the occasional scuffle, broken glass and various mess from time to time – you don't buy a property near a pub unless you are prepared to put up with this to some extent. Having 7 years' experience myself working in local pubs and having also been a licence holder myself one, I know how difficult it is to control. It is for this reason that I feel giving customers longer hours drinking is not a good idea.

Another point I would like to raise, which is related to this, is the side door of the Union Tavern. From my knowledge as a publican, I know this is supposed to act as a fire exit. However, it is frequently open at all times during day and night opening hours which is a major concern due to the increased noise levels to ourselves and our near neighbours. I would like to suggest that this door is kept shut at all times, except in the case of emergencies and deliveries. This would cut down the amount of noise, smoke and pollution. At time, I can't even open my bedroom window due to the smell of smoke and how it then makes my bedroom smell.

I would also like to suggest that the side door isn't used for an early entry on Sundays. This also ties in the earlier opening time of 11.00am – Sunday morning is the one morning a week we can be guaranteed a bit of peace and it would be nice if it stayed this way.

In summary, the suggestion is not to allow the 11.00am opening on Sundays and that the side door fire exit is used for this purpose, rather than another open door for people to congregate around.

I would be most grateful if you could consider the above points when granting your decision.

Yours hopefully,

Local Occupier

Flat 1
Old Tavern House
31 High Street
Fortrose
IV10 8SU



14TH September 2016

Dear Sir

Re:Objection to application for variation of premises licence-Union Tavern, 29 High Street, Fortrose.

Regarding the above application, I wish to lodge my objection on the grounds of Inconsistent with Licensing Objectives.

The premises in question is located in a residential area and I suggest that granting of the varied licence would be inconsistent with:

- Preventing crime and disorder.
- Preventing public nuisance.

Should the premises in question be granted the variation to the current licence, this will increase the potential for noise nuisance during the working week. At present, when customers leave the premises on Friday and Saturday evenings at closing time, they regularly gather outside residential premises. At such times it is not unusual for there to be a degree of loud and anti-social behaviours.

This is tolerable on these days but should this occur during the working week it would have an impact upon residents which I feel would not be acceptable.

It is not unusual and indeed occurs with regularity that customers who have exited the premises in order to smoke, often in Tavern Lane, can be seen urinating in the lane and against residential buildings. In addition, there have been a number of occasions when customers have entered the grounds of my property, through a 7 foot gate and urinated in my garden area. This I do not find acceptable and would be most concerned that the potential for this behaviour would increase should a varied licence be granted.

I would ask that these objections be given due notice when considering the granting of the varied licence.

Yours faithfully


Angela Wilkinson